IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 13390 of 2007(R)

PETITIONER:

T.T.PHILOMINA,
THERUVANKUNNEL HOUSE,
P.O.KANNARA,THRISSUR.

BY ADV. SRI.I.DINESH MENON

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
THRISSUR.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,THRISSUR.

3. M.P.JOY, MEKKATTU HOUSE, ELANADU,
THRISSUR.

BY ADV. SRI.A.INEES
SRI.M.JITHESH MENON
BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO. 13390 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the proceeding dtd.19.10.05.

Ext.P2: Copy of the judgment in M.V.A.A.No.96/06 dtd.16.2.06.

Ext.P3: Copy of the proceedings dtd.14.6.06.

Ext.P4: Copy of the Writ Petition(C) 19461/06 dtd.10.10.06.

Ext.P5: Copy of the stay order dtd.25.7.06.

Ext.P6: Copy of the judgment in W.P.(C) No.19461/06 dtd.10.10.06.

Ext.P7: Copy of the temporary permit valid till 31.3.2007.

Ext.P8: Copy of the decision dtd.18.1.2007.

Ext.P9: Copy of the decision reported in 2006(2) KLT 1016.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.13390 OF 2007

Dated this the 18th day of June, 2007

J U D G M E N T

The petitioner challenges Ext.P8 decision of the Regional Transport Authority by which certain vacant timings were allotted to the third respondent. The petitioner's contention is that the petitioner was all along operating on the strength of temporary permits in the vacant timings and she applied for regular permit in that vacancy. The third respondent, who operated temporarily in that route for a very short time, also applied for regular permit. A dispute arose as to who is entitled to the regular permit. That dispute was taken to this Court and this Court, by Ext.P6 judgment, ultimately was of the view that both are entitled to get permits as applied for, subject to settlement of timings. However, this Court directed that whether the vacant timings of the stage carriage KL-8 B 1400 should be allotted to the petitioner or to the third respondent shall be decided by the Secretary of the R.T.A. after affording an opportunity of being heard to both the

operators. The petitioner's contention is that in violation of this direction, the R.T.A. has passed Ext.P8 order directing grant of vacant timings to the third respondent which, according to him, is not what was contemplated under Ext.P6 judgment.

2. Learned counsel appearing for the third respondent would submit that since the Secretary, R.T.A. is only a delegate of the R.T.A., there is nothing wrong in the R.T.A. itself deciding the matter notwithstanding the fact that this Court directed the Secretary of the R.T.A. to decide the issue.

3. I do not agree with the contention of learned counsel for the third respondent. In Ext.P6 judgment, both the R.T.A. as well as the Secretary, R.T.A. were parties. This Court chose to direct the second respondent- the Secretary, R.T.A. to decide the matter. It is also not disputed before me that normally, it is the Secretary who settles the timings of such stage carriages. The third respondent has not brought to my attention any special circumstances in this case which

would warrant the R.T.A. itself deciding the issue. That being so, I am satisfied that Ext.P8 has been issued in violation of the judgment of this Court in Ext.P6. Accordingly, Ext.P8 is quashed to the extent it allots vacant timings to the third respondent and the second respondent is directed to take appropriate decision as directed in Ext.P6 judgment as expeditiously as possible, at any rate within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of with the above direction.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007